



January 9, 2022

TO: Chair P. Denise La Costa  
Vice Chair Kellie Pali  
Members of the Maui Planning Commission

FR: AMERICAN RESORT DEVELOPMENT ASSOCIATION – HAWAII (ARDA-Hawaii)

RE: Proposed amendments to TITLE MC-12, DEPARTMENT OF PLANNING, SUBTITLE 02, MAUI PLANNING COMMISSION, CHAPTER 202, SPECIAL MANAGEMENT AREA RULES and Proposed amendments to TITLE MC-12, DEPARTMENT OF PLANNING, SUBTITLE 02, MAUI PLANNING COMMISSION, CHAPTER 203, SHORELINE RULES FOR THE MAUI PLANNING COMMISSION  
**Hearing date: Tuesday, January 10, 2023 at 9:00AM**

Aloha Chair La Costa Vice Chair Pali and members of the Maui Planning Commission,

Thank you for allowing ARDA-Hawaii to submit testimony providing OPPOSITION to Proposed amendments to TITLE MC-12, DEPARTMENT OF PLANNING, SUBTITLE 02, MAUI PLANNING COMMISSION, CHAPTER 202, SPECIAL MANAGEMENT AREA RULES and Proposed amendments to TITLE MC-12, DEPARTMENT OF PLANNING, SUBTITLE 02, MAUI PLANNING COMMISSION, CHAPTER 203, SHORELINE RULES FOR THE MAUI PLANNING COMMISSION("The Shoreline Rules").

The Shoreline Rules seeks to utilize a computer model (Sea Level Rise Viewer) to estimate where the shoreline might be in the year 2100, and then calculate set backs from the estimated future line. ARDA Hawaii is concerned that the proposed Shoreline Rules are highly improper and subject to legal challenge. The Sea Level Rise Viewer was never intended to for broad policy application and appears to be inappropriate for County implementation. Further, the proposed Shoreline Rules reject the use of the certified shoreline as required by State law.

ARDA Hawaii is concerned with the over burdensome rules which impose far too many restrictions on hotels and timeshares' abilities to repair and renovate existing structures. The dramatic increase of the scope of the shoreline setback area significantly limits a landowner's ability to repair and maintain their property. ARDA Hawaii recommends that the Shoreline Rules should be crafted in a manner to not unreasonably restrict the ability of the hotels to make simple renovations and reasonable repairs to keep our properties safe and the industry strong.

Additionally, ARDA Hawaii is concerned that the Shoreline Rules will impact the permitting process for projects in the Special Management Area ("SMA"). Currently, SMA permits are



already time consuming and expensive. Rather than exempting the simple renovations and necessary repairs, our industry will have to submit applications and seek approval for work far mauka of the ocean. Such a requirement would be unduly burdensome and limit properties from providing the highest quality accommodations.

ARDA Hawaii understands that a small working group has proposed a version of the rules with the compromise of dropping the 40-foot setback and using the Erosion Hazard Line as the setback while allowing the tourism industry to make reasonable repairs and renovations. This appears to be a reasonable compromise which would increase the setback area while still allowing the industry to repair, renovate and upkeep their properties.

In sum, the Shoreline Rules as proposed are too restrictive and pose a significant risk to Maui's economy. ARDA Hawaii respectfully recommends that this matter be deferred. If the Commission feels inclined to pass a version of the rules, we strongly urge the commissioners to consider the proposed compromise which balances the interests of all stakeholders. We are grateful for the opportunity to work with the Commission on these proposed rules and look forward to working together to manage tourism in a reasonable fashion.

Thank you for your consideration of my comments.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be 'M. Imanaka', with a long horizontal stroke extending to the right.

Mitchell A. Imanaka  
ARDA Hawaii Chair





January 9<sup>th</sup>, 2023

Dear Planning Commission Chair and committee members,

On behalf of Maui PRMA, the Vacation Rental Trade Council under the Maui Chamber of Commerce, **we are requesting a deferral of Item B1, the SMA and Shoreline Rules as they are currently written until more input can be provided.**

PRMA, the Professional Rental Management Association, is a coalition of professional property management companies representing over 1600 **legally zoned condominium vacation rental units throughout Maui**. Our members are licensed in the State of Hawaii, engaged in the management of legal vacation rental properties, primarily condominiums, and comply with real estate license law and code of ethics. Our companies represent 216 years in business, employing nearly 200 employees and over 300 independent contractors and vendors.

First off, our industry is highly impacted by these SMA and Shoreline rules as many of the properties we manage are within the sea level rise area; however, our industry members were not notified nor given the opportunity to provide feedback on this issue. We would request the chance to be part of the discussion before any decisions are made. These rules are far reaching and have large implications for many industries, businesses and community members yet these constituents have not been notified or brought to the table.

Second, the proposed rules and guidelines offer retreat stipulations but do not provide mitigation models. We would like to see mitigation options provided including ground truthing to assess the unique needs for each type of coastline as many of these properties within the sea level rise are located in different types of coastline and may require different solutions.

Third, the SMA and shoreline rules address the environmental affects of the sea level rise but there has not been much discussion regarding the **economic impacts of these rules**. For example, just one property that our company manages in Lahaina within the sea level rise shows a potential loss of \$12 million on the economic modeler. If 25% of our PRMA group's properties are within the 3.2 ft of sea level rise, that could equal \$12 million x 400 properties for a total loss of \$4.8 billion. A potential loss of income with that large of a number should be thoroughly discussed and addressed before quickly moving forward with a set of rules and regulations.

We ask that you defer this set of rules and regulations for now, bring more industries to the table, including ours, to discuss the impacts and potential solutions before moving forward.

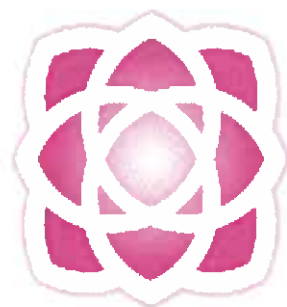
Thank you and we welcome any discussion with you or a member of your administration. We can be contacted at [Mauiprma@gmail.com](mailto:Mauiprma@gmail.com).

Mahalo,

John Kevan  
Angela Leone

Maui Professional Rental Management Association (Maui PRMA)





# MAUI

CHAMBER OF COMMERCE

VOICE OF BUSINESS

**Item B2**  
**SMA & Shoreline Rules**  
**Tuesday, January 10, 2023**

Dear Chair LaCosta, Vice-Chair Pali, and  
Members of the Maui Planning Commission,

At the December 6th meeting, there was discussion about a “small/very small” working group with people noting they were working with then Director McLean and sharing their willingness to serve. After hearing that, I and others expressed interest in participating in a working group to offer input from affected parties to give more a seat at the table, share our thoughts on the proposed measures and examine broader solutions. We never heard back and at the meeting of December 13<sup>th</sup> it seemed the Department hoped to pass the new rules out and then discuss revisions with a working group after the fact.

As hotels were well represented and as our offers to provide input went unanswered, we convened a working group made up of impacted business sector and community leaders to get their thoughts on the proposed rules after the December 13<sup>th</sup> meeting.

The Chamber felt it would be valuable to educate affected entities, that we heard were not familiar with the process, on impacts of the proposed SMA and Shoreline rules and convened a group to review and comment on them. Our group met on December 28<sup>th</sup> for 5 hours to review the modeler and go through the rules section by section. During that timeframe, the group only got through page 202-17 on the SMA Rules alone, exemplifying how much time these two important topics require for needed review and discussion.

Given this, the working group and the Maui Chamber of Commerce strongly believe this matter should be deferred for the following reasons:

- As heard during testimony in previous meetings, we and many others do not feel appropriate notification was given to property owners, community groups, relevant organizations and more. Certified notices should be mailed to all impacted stakeholders in addition to holding public meetings and presentations that are publicized across multiple media platforms. While we know this goes above and beyond the typical notification process for rule changes, these rules have the potential to have major impacts and warrant outreach of this magnitude.
- We believe these rules must be viewed holistically. There has been significant discussion on environmental impacts and managed retreat, but not about other mitigation measures and economic impacts. The rules are meant to protect properties, the environment, and the economy and we strongly feel these three elements should be looked at and addressed in tandem.



**Item B SMA/Shoreline Rules**  
**Tuesday, January 10, 2023**  
**Page 2**

- There are still questions on some elements of and the accuracy of the map/modeler. Our working group pointed out several areas where the modeler's economic impact tool was inaccurate, and they questioned where the dollar amounts provided came from. Given these concerns, we suggest having a team conduct ground truthing in various areas across the island, as they did in Kauai.

We strongly encourage the Commission to take the time needed to get this right. These rules are too important to rush, and it takes broader community participation. All affected parties should be represented at the table. It is important to start with a comprehensive plan, leveraging the work done thus far, and examine other existing models and mitigation measures. With improved tools, more participation, and broad language tightened up, we believe a better plan will emerge and lawsuits could be prevented. Please read and consider our attached Recommendations.

Lastly, given the work that should continue on these rules, we ask that the department find a way to exempt restaurants who are trying to make their pandemic space permanent. We know how important these extra areas are and do not think they should be held up or forced to get an SMA permit for activities that were allowed under the emergency rules/proclamations for Maui County.

Mahalo nui loa for your time and thoughtful work as you strive to address managed retreat and years of work ahead of us.

Sincerely,



**Pamela Tumpap**  
**President**

**Members of the working group who support the attached Recommendations:**

**David Arakawa, Land Use Research Foundation**

**Howie Kihune, Jr., Aina Lani Pacific**

**Angela Leone, Professional Rental Management Association**

**Sne Patel, Lahaina Town Action Committee**

**Frank "Bud" Pikrone, Wailea Community Association**

**Joe Pluta, West Maui Taxpayers Association**

**Cara Scoffings, Construction Industry of Maui**

**Brian Yano, Jones Lang LaSalle**

To advance and promote a healthy economic environment for business, advocating for a responsive government and quality education, while preserving Maui's unique community characteristics.



**Maui Chamber of Commerce  
SMA/Shoreline Rules Working Group**

**RECOMMENDATIONS**

- Take the time needed to get this right, with the public and all affected parties having an opportunity to ring in. This is too important to rush and many were not aware of these rules coming out. Further the maps, setback areas, timing and options are not well understood. Passing and publishing these rules as they currently exist could tank property values and lead to lawsuits. We feel it is important to start with a comprehensive plan, leveraging the work done thus far and examining other existing models and mitigation measures. With improved tools, more participation, clearer rules in plain English, and broad language tightened up, we believe a better plan will emerge and lawsuits could be prevented.
- Take a wholistic look. Explain that the rules are meant to protect properties, the environment and the economy and not stop other activities. We feel it is important to look sea level rise - an environmental and economic crisis - like the health and economic crisis created by COVID. When COVID hit, both the World Health Organization and International Monetary Fund united to say that both must be addressed in tandem. Only addressing one side would exacerbate the other. We feel the same recognition and approach applies here. Rules and solutions to address sea level rise must address both the environmental and economic crisis in tandem.
- Put together a working group or TIG.
  - Include representation by all affected parties - homeowners, industry groups, business and environmental groups, nonprofits, etc. We recommend:
    - Mayor Bissen
    - Planning Department Director
    - Representative Kyle Yamashita
    - Senator Lynn Decoite
    - Council Chair
    - Individual Homeowner(s)
    - Industry Groups (Banking, Construction\*, Development\*, Nonprofit Housing, Hotels, Insurance, Real Estate\*, Restaurant\*, Retail\*) - Please note that all members of Maui Chamber's working group are willing to serve. They include those with an asterisk (\*).
    - Lahaina Town Action Committee\*
    - Maui Chamber of Commerce\*
    - Maui Tomorrow
    - Realtors Association of Maui
    - Wailea Community Association\*
    - West Maui Taxpayers Association\*



- Invite resource people such as attorneys, ocean scientists, and experts on mitigation measures. We recommend:
    - Commissioners P. Denise LaCosta & Kawika Freitas to serve if they are termed out.
    - David Arakawaka\*, Land Use Research Foundation
    - Cal Chipchase, Attorney representing the hotel industry (expressed interest in serving during commission meetings)
    - Chris Conger, Ocean Scientist
    - Mike Fowley, Groins
- Mail a certified notice to all affected Stakeholders - affected property owners, businesses, and communities. Include maps, the timing of Sea Level Rise in their area, direct them to available resources and invite them to share their thoughts and participate in public meetings.
- Actively, across multiple media platforms, promote the public community meetings.
- Hold public community meetings and present pertinent information required for decision making, such as:
  - Maps of affected areas with the 3.2 red line and 40 foot set back shown
  - Data explaining how many properties are impacted in each region, the timing of sea level rise impacts on specific areas, and the economic impacts of sea level rise in each region
  - Maps with prioritized, color coded, mitigation areas and timing as erosion is not equal across the island
  - Real world examples of affected properties, how the “currently drafted” rules would apply to them and what they could and could not do
  - Benefits of managed retreat, with examples by region, so people can see what that would look like and where property owners would move to
  - Alternatives to managed retreat, how they are being used elsewhere and whether alternatives do or don't work in certain areas, such as:
    - Hardening
    - Groins
    - Measures that would allow property owners to invest in repairing their property if they so choose, while protecting the County and the environment, such as hold harmless agreements and bonds or insurance policies to cover the County should their building/structure go into the ocean
  - Statewide Planning and how our County Plan fits or doesn't in
- Provide public input reports to the working group or TIG
- Have the working group or TIG work with the Planning Department to create a long-term Comprehensive County Plan that can be part of a Comprehensive State Plan, also addressing government funding assistance for retreat or mitigation measures
- Present plan to the Planning Commission for their review and input



**From:** "Yano, Brian" <Brian.Yano@jll.com>  
**To:** "planning@mauicounty.gov" <planning@mauicounty.gov>  
**Date:** 1/10/2023 6:26 AM  
**Subject:** SMA and Shoreline Rules written Testimony  
**Attachments:** JLL Letter to Planning Commission 2023.01.09.pdf

Attached please find my written testimony regarding the SMA and Shoreline Rules. I am working in conjunction with the Maui Chamber of Commerce working group. Thank you.

**Brian K. Yano (S)**

Vice President, Regional Manager - Hawaii

JLL Retail

T +1 808 348 2407

[brian.yano@jll.com](mailto:brian.yano@jll.com)

[jll.com](http://jll.com)



[One of the 2022 World's Most Ethical Companies®](#)

Jones Lang LaSalle

For more information about how JLL processes your personal data, please click [here](#).

This email is for the use of the intended recipient(s) only. If you have received this email in error, please notify the sender immediately and then delete it. If you are not the intended recipient, you must not keep, use, disclose, copy or distribute this email without the author's prior permission. We have taken precautions to minimize the risk of transmitting software viruses, but we advise you to carry out your own virus checks on any attachment to this message. We cannot accept liability for any loss or damage caused by software viruses. The information contained in this communication may be confidential and may be subject to the attorney-client privilege. If you are the intended recipient and you do not wish to receive similar electronic messages from us in the future then please respond to the sender to this effect.





Jones Lang LaSalle Americas, Inc.  
1585 Kapiolani Boulevard, Suite 1750  
Honolulu, HI 96814

T +1 808 348 2407  
[brian.yano@jll.com](mailto:brian.yano@jll.com)  
[jll.com](http://jll.com)

JLL Retail  
70 E. Kaahumanu Avenue  
Kahului, HI 96732

---

January 9, 2023

Aloha Planning Commission Chair and Committee Members:

I am the Vice President and Regional Manager for Hawaii for JLL. JLL is one of the largest commercial real estate property management firms on Maui. We have 16 properties under management on Maui of which more than half of them is affected by the SMA and Shoreline Rules.

I am requesting a deferral of item B1, the SMA and Shoreline Rules as they are currently written until broader input can be provided.

The retail commercial real estate industry is heavily impacted by these SMA and Shoreline Rules and while many of the property owners were notified, no ground lessees, property management companies or tenants of these centers were notified nor given the opportunity to provide feedback on these issues. These rules affect our ability to manage, lease the properties as well as having our tenants do major improvements to open their businesses.

The SMA and Shoreline Rules address the environmental impacts of the sea level rise, they do not take into effect the economic impact of these rules. An example is the I looked at one property, look at the se level rise and economic impact on the website and calculated the total impact as 16 million. I am not sure how this is calculated. The real property tax assessment of the proper for the land is 23 million, with the building it would be over 40 million. The revenue generated from rent is over 5 million and the tenant sales revenue is over 40 million. This does not take into effect the loss of real property tax revenue, general excise tax revenue on the rent, the tenant gross sales and the cost of services provided by vendors such as cleaning, landscape maintenance, security, utilities, etc. The economic impact of this one center would be over 70 million not 16 million.

We would also like to see mitigation options as this was not addressed in these rules and guidelines.

We ask that you defer this set of rules and bring more industries into this discussion for broader input.

Thank you for the consideration. I can be reached at [brian.yano@jll.com](mailto:brian.yano@jll.com).

Mahalo  
Jones Lang LaSalle Americas, Inc.

A handwritten signature in black ink, appearing to read "Brian Yano".

Brian K. Yano (S)  
Vice President, Regional Manager - Hawaii



**From:** 40-1 <40-1@puamana.net>  
**To:** "planning@mauicounty.gov" <planning@mauicounty.gov>  
**Date:** 1/10/2023 10:57 AM  
**Subject:** Shoreline hardening

Aloha,

It is a shame to see some of these structures in jeopardy, however we need to think island wide and prepare for the reality that we cannot stop the ocean. Our hardened shorelines have created additional damage and has really been detrimental across our island. Please consider the opportunity to prepare future generations for the reality of a rising ocean. With that in mind, please carefully review all the facts and eliminate or reduce all shoreline hardening efforts. Maui was not made that way and we are just creating chaos.

Moving our boundary back is a great idea so that we will not need to worry about the future loss of homes and structures. A managed retreat is the best solution and if we give homeowners that chance, and they do not act, hopefully any litigation will be moot. Many problems exists today due to shoreline hardening abuses. It would be great to be on the shore, but it also means we need to assume the risks that come along with that. Maui County can only do so much and should be focused on the greater good of the island. Sustainability and know that no amount of money can stop the ocean from reclaiming vulnerable land.

No more hardened shorelines. Sea levels will rise, we should plan accordingly,